



State of North Carolina
Department of Public Safety
POLICIES & PROCEDURES

Division: ADMINISTRATION
Chapter: HUMAN
RESOURCES
Policy: DISCIPLINARY
POLICY

HUMAN RESOURCES

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Purpose and Policy

It is the policy of the Department of Public Safety (DPS) to implement and administer a disciplinary process to ensure all employees receive fair and consistent treatment relative to addressing job performance and personal conduct issues in the workplace. Adherence to this policy and the procedures will assure compliance with current State Human Resources Commission (SHRC) rules, Office of State Human Resource (OSHR) policies and further ensure that disciplinary actions are administered in a fair and equitable manner.

Any employee, regardless of occupation, position, or profession may be disciplined in accordance with this policy by the Commissioner or designee. The degree and type of action issued shall be based upon the sound and considered judgment of the Commissioner or designee in accordance with the provisions of this policy.

The goal of this policy is to improve employee performance and to prevent a recurrence of unacceptable personal conduct or job performance. Supervisors are responsible for documenting actions taken throughout the disciplinary process.

Covered Employees

This policy applies to State employees who have career status as defined by [N.C.G.S. § 126-1.1](#), as follows:

- Is employed in a permanent position; and
- Has been continuously employed by the State of North Carolina or a local entity as provided in [N.C.G.S. §126-5\(a\)\(2\)](#) in a position subject to the State Human Resources Act for the immediate 24 preceding months.

This policy does not apply to the following employees:

- Non-career state employees.
- Employees occupying positions that have been designated as exempt policy-making, exempt managerial, confidential assistant/secretary or as a chief deputy.
- Employees who are subject to N.C. General Statute 115C-325, System of employment for public school teachers. This statute can be found at:

http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_115C/GS_115C-325.html.

Communication of Policy and Procedures

The DPS's Disciplinary Policy and Procedures and the OSHR Disciplinary Action, Suspension and Dismissal Policy shall be prominently displayed in their entirety in locations easily accessible by all employees and shall also be made available to employees upon request. Both policies are available electronically. The most current policy version shall be communicated to new employees during orientation and to existing employees upon issuance and revision.

DPS sections are encouraged to develop internal operational procedures. These may include defining the level of management approval, tracking systems, internal processes, examples of employee misconduct in the workplace and outside the workplace and other best practices as long as they are not in conflict with policy. A copy of the operational procedures are to be submitted and maintained by Human Resources (HR) Employee Relations (ER).

Disciplinary actions require approval from and are at the sole discretion of an appropriate Commissioner or designee. Commissioners may delegate approval authority to any level of management by operational procedure. The operational procedure must specify who has the authority to approve what type of disciplinary action.

Definitions

Counseling: A meeting between a supervisor and employee for the purpose of discussing job performance or personal conduct issues that have not risen to the level of requiring formal disciplinary action, with the intent of improving the employee's performance or personal conduct.

Current Unresolved Incident: An act of unacceptable personal conduct, unsatisfactory job performance or grossly inefficient job performance for which no disciplinary action has previously been issued by DPS.

Disciplinary Demotion:

- A personnel action that reduces the salary of an employee within their current pay grade, or
- A personnel action that places the employee in a position at a lower pay grade with or without reducing the employee's salary, and
- The personnel action is involuntary, and
- The action is issued to discipline the employee.

Suspension without Pay: The removal of an employee from work for disciplinary reasons without pay for the length of time suspended.

Dismissal: The involuntary termination of the employment of an employee for disciplinary reasons, or for failure to obtain or maintain necessary job-related credentials.

Gross Inefficiency (Grossly Inefficient Job Performance): Failure to satisfactorily perform job requirements as defined in the job description, work plan, or as directed by the management of the work unit or DPS; and, the act or failure to act causes or results in:

- Death or serious bodily injury or creates conditions that increase the chance for death or serious bodily injury to an employee(s) or to members of the public or to a person(s) for whom the employee has responsibility; or,
- The loss of or damage to State property or funds that results in a serious adverse impact on the State and/or work unit.

Inactive Disciplinary Action: A disciplinary action becomes inactive, i.e., cannot be counted towards the number of prior disciplinary actions that must be issued before further disciplinary action can be issued for unsatisfactory job performance when:

- The manager or supervisor notes in the employee's personnel file that the reason(s) for the disciplinary action has/have been resolved or corrected; or
- For performance-related disciplinary actions, the performance evaluation process documents a summary rating that reflects an acceptable level of performance overall and satisfactory performance in the area cited in the warning or other disciplinary action, or
- Eighteen (18) months have passed since issuance of the warning or disciplinary action and the employee does not have another active warning or disciplinary action occurring within the last eighteen (18) months. If a warning, demotion or disciplinary suspension occurs within the eighteen (18) months of prior disciplinary warnings, demotions or suspensions, the disciplinary action will remain active until the end date of the most recent disciplinary action.

Insubordination: The willful failure or refusal to carry out a reasonable order from an authorized supervisor. Insubordination is unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning.

Just Cause: The standard of reasonableness used to evaluate an employee's action(s) in a given set of circumstances to determine what level of disciplinary action, if any, will be administered.

Unacceptable Personal Conduct: All employees of the DPS shall maintain personal conduct of an acceptable standard as an employee and member of the community. Unacceptable personal conduct includes, but is not limited to:

- Conduct for which no reasonable person should expect to receive prior warning; or
- Job-related conduct which constitutes a violation of State or federal law; or
- Conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the State; or
- The willful violation of known or written work rules; or
- Conduct unbecoming a State employee that is detrimental to State service; or
- The abuse of client(s), patient(s), student(s) or person(s) over whom the employee has charge or to whom the employee has a responsibility or of an animal owned by the State; or
- Absence from work after all authorized leave credits and benefits have been exhausted; or
- Falsification of a State application or in other employment documentation.

Unsatisfactory Job Performance: Work-related performance that fails to satisfactorily meet job requirements as set out in the relevant job description, work plan, or as directed by the management of the work unit or DPS.

Written Warning: A written warning is the lowest level of formal disciplinary action and, in cases of unsatisfactory job performance, is the first type of formal disciplinary action that management may issue. A written warning may also be issued for unacceptable personal conduct.

Just Cause for Disciplinary Action

Just cause for disciplinary action falls into two categories:

- Discipline issued based on unsatisfactory or grossly inefficient job performance, and
- Discipline issued based on unacceptable personal conduct.

The categories are not mutually exclusive. Some actions by employees may fall into both categories depending upon the facts of each case. No disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly.

Types of Disciplinary Actions

When just cause exists, the disciplinary actions that can be issued are:

- Written Warning
- Disciplinary Suspension without Pay
- Demotion or
- Dismissal

Unsatisfactory Job Performance

Just cause for disciplinary action for unsatisfactory job performance exists when an employee fails to satisfactorily meet job requirements.

Disciplinary actions administered under this policy are intended to bring about a permanent correction in job performance. If the required correction later deteriorates, or other inadequacies occur, the supervisor may address this new unsatisfactory job performance with further disciplinary action.

Progressive discipline attempts to modify undesirable employee performance through the use of a range of disciplinary consequences that are applied depending upon the nature and history (i.e. situational) of the particular employee's unsatisfactory job performance.

Note: The determination of unsatisfactory job performance is generally made by the immediate supervisor. The supervisor's determination must be reasonable, proper and factually supported. In determining whether an employee's performance is unsatisfactory job performance, a manager may consider any one or a combination of the factors below

- The quality of work;
- The quantity of work;
- The accuracy of work;
- Work habits;
- Promptness;
- The timely performance of work;
- Related analysis, decisions, or judgment;
- The performance or work plan and the appraisal;
- Absenteeism;
- Ability to follow instructions, directions, or procedures;
- The appropriateness of work performed;
- Any other factors that, in the opinion of the supervisor, are appropriate to determine whether an employee's performance constitutes unsatisfactory job performance.

Requirements for Disciplinary Action for Unsatisfactory Job Performance

Before disciplinary action for unsatisfactory job performance may be issued, the following must occur for each respective type of disciplinary action. The employee must have:

Written Warning:

- a current unresolved incident of unsatisfactory job performance.

Disciplinary Suspension without Pay:

- a current unresolved incident of unsatisfactory job performance, and
- at least one (1) active disciplinary action, and
- a Pre-Disciplinary Conference.

Demotion:

- a current unresolved incident of unsatisfactory job performance, and
- at least one (1) active disciplinary action, and
- a Pre-Disciplinary Conference.

Dismissal:

- a current unresolved incident of unsatisfactory job performance and
- at least two (2) active disciplinary actions, and
- a Pre-Disciplinary Conference.

Grossly Inefficient Job Performance

Just cause to issue disciplinary action for grossly inefficient job performance exists when failure to satisfactorily perform job requirements, as set out in the job description, work plan, or as directed by the management of the work unit or agency; and the act or failure to act causes or results in:

- Death or serious bodily injury, or creates conditions that increase the chance for death or serious bodily injury to an employee(s) or to members of the public or to a person(s) for whom the employee has responsibility; or,
- Loss of or damage to State property or funds that results in a serious adverse impact on the State and/or work unit.

Requirements for Disciplinary Action for Grossly Inefficient Job Performance

No prior discipline is required to suspend, demote or dismiss an employee for grossly inefficient job performance. Before an employee may be suspended, demoted or dismissed for grossly inefficient job performance, the following must occur:

- a current unresolved incident of grossly inefficient job performance and
- a Pre-Disciplinary Conference.

Unacceptable Personal Conduct

Just cause to warn or take other disciplinary action for unacceptable personal conduct may be created by intentional or unintentional acts. The conduct may be job-related or off duty so long as there is a sufficient connection between the conduct and the employee's job. Insubordination is a type of unacceptable personal conduct.

Requirements for Disciplinary Action for Personal Conduct

Before disciplinary action for unacceptable personal conduct may be issued, the following must occur for each respective type of disciplinary action:

Written Warning:

- Current unresolved incident of unacceptable personal conduct.

Disciplinary Suspension without Pay:

- Current unresolved incident of unacceptable personal conduct, and
- Pre-Disciplinary Conference.

Demotion:

- Current unresolved incident of unacceptable personal conduct and
- Pre-Disciplinary Conference.

Dismissal:

- Current unresolved incident of unacceptable personal conduct, and
- Pre-Disciplinary Conference.

Procedures for Issuing Disciplinary Actions

Managers and supervisors have the duty to regularly review and encourage satisfactory job performance and address cases of unacceptable personal conduct by employees of the work unit. The manager or supervisor should examine a number of factors to decide the appropriate type of disciplinary action if any. Factors include, but are not limited to:

- Severity of the violation or incident;
- Whether the violation is considered current and unresolved
- Whether it is a recurrent violation or behavior;
- Productivity of the employee;
- Assignment of job duties of the employee;
- Amount and degree of training or instruction provided;
- Employee's demeanor and willingness to receive feedback;

- Whether the supervisor should recommend disciplinary action based on the facts known at that time or whether more investigation is needed to make a recommendation;
- The employee's work history; and
- The disciplinary actions received by other similarly situated employees within DPS or the work unit for comparable performance or behaviors.

Written Warning

A written warning shall include the following information in the text of the document:

- A statement that it is specifically a written warning;
- Specific job performance or personal conduct deficiencies that are the basis for the written warning;
- What specific job performance or personal conduct corrections must be made;
- The timeframe in which the employee must show improved performance or conduct. If the written warning does not include a correction time frame, the time frame is sixty (60) calendar days for unsatisfactory job performance and immediately for unacceptable personal conduct and shall continue on an ongoing basis;
- Consequences of failing to make the required corrections. Specifically, failure to correct the job performance, or failure to correct the unacceptable personal conduct may result in additional disciplinary action up to and including dismissal;
- A written warning cannot be appealed.
- Signature line for employee.

A copy of the written warning shall be forwarded to the Human Resource Office for entry into Beacon HR database and inclusion in the employee's Personnel File.

Disciplinary Suspension without Pay

- Any employee may be suspended without pay for disciplinary reasons for a current incident of unsatisfactory job performance after the receipt of at least one prior active disciplinary action, or without prior warning or disciplinary action for unacceptable personal conduct or for grossly inefficient job performance.
- Length of Time for Disciplinary Suspension without Pay

| Type of Employee | Minimum Period | Maximum Period |
|---|-------------------|--------------------|
| Subject to the Overtime Compensation Provisions of the Fair Labor Standards Act | One (1) work day | Two (2) work weeks |
| Exempt from the Overtime Compensation Provisions Fair Labor Standards Act | One (1) work week | Two (2) work weeks |

One (1) day is equal to one (1) day of the employee's regular work schedule.

Procedure for a Disciplinary Suspension without Pay:

Prior to conducting a Pre-Disciplinary Conference, the manager/supervisor recommending disciplinary action that requires a Pre-Disciplinary Conference must first advise and seek the concurrence of the appropriate Commissioner or designee. Upon approval by the Commissioner or designee, the Agency head or manager will then advise and collaborate with the Human Resources Director or his/her designee. After review by the Human Resource Director or his/her designee, a Pre-Disciplinary Conference may be scheduled. (Refer to page 13 of this policy for procedures on conducting Pre- Disciplinary Conference.)

The manager/supervisor must:

- Provide advance written notice to the employee of the Pre-Disciplinary Conference
- Conduct the Pre-Disciplinary Conference

Any employee who fails to attend the Pre-Disciplinary Conference without prior notification to the manager, shall forfeit his/her right to a Pre-Disciplinary Conference. Management will proceed with the decision for disciplinary action.

Following the Pre-Disciplinary Conference and final approval of the Disciplinary Suspension without Pay by the Commissioner or designee, the manager will then meet with the employee and provide a written statement to include:

- Notice of the disciplinary suspension without pay specifically stating that it is a suspension without pay;
- Specific job performance or personal conduct deficiencies that are the basis for the suspension without pay;
- What specific job performance or conduct corrections must be made;
- The timeframe in which the employee must show improved performance or conduct. If the disciplinary suspension without pay written notice does not include a correction time frame, the time frame is sixty (60) calendar days for unacceptable job performance and immediately for unacceptable personal conduct;
- The consequences of failing to make the required corrections. Specifically, failure to correct the job performance, or failure to correct the unacceptable personal conduct may result in additional disciplinary action up to and including dismissal;
- Written notice of appeal rights.

The decision shall not be communicated to the employee before the start of the next business day after the conference or after the end of the second business day following the completion of the conference.

Demotion

Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory job performance, or unacceptable personal conduct. To pursue a demotion, the following requirements apply for the respective categories:

- Unsatisfactory Job Performance: a current incident of unsatisfactory job performance after the employee has received at least one (1) prior active disciplinary action.
- Unacceptable Personal Conduct: without any prior active disciplinary action.
- Grossly Inefficient Job Performance without any prior warning or disciplinary action.

Disciplinary demotions may be accomplished by any of the three (3) methods below:

| Grade Change | Pay Change | Restrictions on Changes |
|--------------------------|----------------------|---|
| Reducing the grade/band | Retaining the salary | Salary shall not exceed the maximum of the salary schedule for the new lower grade/band. |
| Reducing the grade/band | Reducing the salary | Same as above |
| Retaining the grade/band | Reducing the salary | The salary shall not be less than the minimum of the salary schedule for that grade/band. |

Procedure for a Demotion

Prior to conducting a Pre-Disciplinary Conference, the manager/supervisor recommending disciplinary action that requires a Pre-Disciplinary Conference must first advise and seek the concurrence of the appropriate Commissioner or designee. Upon approval by the Commissioner or designee, the Agency head or manager will then advise and collaborate with the Human Resources Director or his/her designee. After review by the Human Resource Director or his/her designee, a Pre-Disciplinary Conference may be scheduled. (Refer to page 13 of this policy for procedures on conducting Pre- Disciplinary Conference.)

The manager/supervisor must:

- Provide advance written notice to the employee of the Pre-Disciplinary Conference
- Conduct the Pre-Disciplinary Conference.

Any employee who fails to attend the Pre-Disciplinary Conference without prior notification to the manager, shall forfeit his/her right to a Pre-Disciplinary Conference. Management will proceed with the decision for disciplinary action.

Following the Pre-Disciplinary Conference and final approval of the demotion by the Commissioner or designee, the manager will then meet with the employee and provide a written statement to include:

- Notice of the demotion specifically stating that it is a demotion;
- Specific job performance or personal conduct deficiencies that are the basis for the demotion;
- What specific job performance or conduct corrections must be made;
- The timeframe in which the employee must show improved performance or conduct. If the letter of demotion does not include a correction time frame, the time frame is sixty (60) calendar days for unacceptable job performance and immediately for grossly inefficient job performance or unacceptable personal conduct;
- The consequences of failing to make the required corrections. Specifically, failure to correct the job performance, or failure to correct the unacceptable personal conduct may result in additional disciplinary action up to and including dismissal.
- Written notice of appeal rights;
- If applicable, any change to the employee's classification, salary rate and/or pay grade/band, and indicate what change will occur in the salary rate and/or pay grade/band.

The decision shall not be communicated to the employee before the start of the next business day after the conference or after the end of the second business day following the completion of the conference.

Dismissal

Any employee may be dismissed as a result of unsatisfactory job performance, grossly inefficient job performance or unacceptable personal conduct. To pursue a dismissal, the following requirements apply for the respective categories:

- **Unsatisfactory Job Performance:** An employee must have at least two (2) active disciplinary actions and a current incident of unsatisfactory job performance before the employee may be dismissed for unsatisfactory job performance. Disciplinary actions include: Written Warnings, Disciplinary Suspension without Pay and Demotion.
- **Grossly Inefficient Job Performance:** An employee may be dismissed for a current incident of grossly inefficient job performance without any prior disciplinary actions.
- **Unacceptable Personal Conduct:** An employee may be dismissed for a current incident of unacceptable personal conduct without any prior disciplinary actions.

Procedure for a dismissal of an employee

Prior to conducting a Pre-Disciplinary Conference, the manager/supervisor recommending disciplinary action that requires a Pre-Disciplinary Conference must first advise and seek the concurrence of the appropriate Commissioner or designee. Upon approval by the Commissioner or designee, the Agency head or manager will then advise and collaborate with the Human Resources Director or his/her designee. After review by the Human Resource Director or his/her designee, a Pre-Disciplinary Conference may be scheduled. (Refer to page 13 of this policy for procedures on conducting Pre- Disciplinary Conference.)

The manager/supervisor must:

- Provide advance written notice to the employee of the Pre-Disciplinary Conference
- Conduct the Pre-Disciplinary Conference.

Any employee who fails to attend the Pre-Disciplinary Conference without prior notification to the manager, shall forfeit his/her right to a Pre-Disciplinary Conference. Management will proceed with the decision for disciplinary action.

Following the Pre-Disciplinary Conference and final approval of the dismissal by the Commissioner or designee, the employee shall be provided a written notice of dismissal in person or by certified mail with return receipt requested.

The decision shall not be communicated to the employee before the start of the next business day after the conference or after the end of the second business day following the completion of the conference.

The written notice shall include:

- Notice of dismissal stating that he/she is being dismissed;
- The specific reason(s), acts or omissions for the dismissal;
- The effective date of the dismissal, which can be no sooner than the date of the written notice of dismissal;
- Notice that the dismissal letter may be a public record and that DPS may be required by law to release it pursuant to any public record requests
- Written notice of appeal rights.

Dismissal Letter – Public Information

If an employee is dismissed and does not appeal the dismissal, the dismissal letter is a public document.

If the employee appeals the dismissal through the State of North Carolina Employee Grievance Policy, the Final Agency Decision (FAD) shall set forth the specific acts or omissions that are the basis of the employee's dismissal. In addition, the employee shall be informed in the dismissal letter that the dismissal letter may be a public record and that the DPS is required by law to release it pursuant to any public record requests.

Procedures for Pre-Disciplinary Conference

Prior to conducting a Pre-Disciplinary Conference, the manager/supervisor recommending disciplinary action that requires a Pre-Disciplinary Conference must first advise and collaborate with appropriate agency management to include the Human Resources Director or his/her designee. After review by the Human Resource Director or his/her designee, a Pre-Disciplinary Conference may be scheduled.

Any employee who fails to attend the Pre-Disciplinary Conference without prior notification to the manager, shall forfeit his/her right to a Pre-Disciplinary Conference. Management will proceed with the decision for disciplinary action.

The employee shall be given advance written notice of the conference at least twelve (12) hours prior to the conference. The notice must inform the employee of the:

- Type of disciplinary action being considered;
- Conference date, time and location; and
- Facts that led to the recommendation.

The person conducting the Pre-Disciplinary Conference must have the authority to recommend or decide what, if any, disciplinary action should be issued to the employee.

The Pre-Disciplinary Conference participants are:

- The supervisor or other person chosen by DPS management to conduct the conference;
- A second management representative may be present at management's discretion;
- The employee; and
- If the person conducting the conference chooses, security may be present;

No attorney shall represent either side at the conference. An employee does not have the right to have witnesses at the conference.

Additionally, audio tape, videotape recording devices, and transmission devices are not permitted during the conference except as approved by management.

After the Pre-Disciplinary conference, management must review and consider the response the employee provided during the conference and make a decision on whether to proceed with the recommended disciplinary action. Following final management approval, the employee shall be notified of the decision in writing, but not before the start of the next business day following the conference or after the end of the second business day following the completion of the conference.

If following the Pre-Disciplinary Conference, management desires to consider a different disciplinary action, the request should return through the original approval process.

Failure to Follow Procedures

Failure to give written reasons for the suspension without pay, demotion or dismissal, written notice of appeal rights, or to conduct a Pre-Disciplinary Conference is a procedural violation. If DPS fails to follow procedure, DPS management shall be subject to the rules of the State Human Resources Commission dealing with procedural violations.

Investigatory Leave with Pay

An employee may be placed on Investigatory Leave with Pay (ILWP) per approval from the Human Resources Director or designee(s), or in appropriate circumstances, without prior approval, but with notification to the OSHR Director or designee the following business day. Investigatory leave shall be with pay (i.e. no charge to the employee's accrued leave) and may be used to temporarily remove an employee from work status. Investigatory leave does not constitute a disciplinary action, and therefore, may not be appealed.

An employee may be placed on ILWP only:

- To investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action;
- To provide time within which to schedule and conduct a pre-disciplinary conference; or
- To avoid disruption of the work place and/or to protect the safety of persons or property.

Under no circumstance is it permissible to use ILWP for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.

The employee shall be notified in writing of the reasons for ILWP not later than the second scheduled workday after the beginning of the leave.

ILWP may last no more than thirty (30) calendar days without written approval of extension by the Secretary or designee and the State Human Resources Director or designee. When an extension beyond the thirty (30) day period is required, the agency must advise the employee in writing of the extension, the length of the extension, and the specific reasons for the extension. If no action has been issued by an agency by the end of the thirty (30) day period and no further extension has been granted, DPS must either take appropriate disciplinary action on the basis of the findings upon investigation or return the employee to active work status.

Temporary Placement

In lieu of ILWP, a manager may consider temporarily placing an employee within the work unit or to another work unit if applicable and based on business need. Employees temporarily placed shall be given written notification of the temporary placement when the placement results in a change of work locations or if there are any specific instructions. Such actions are for the benefit of the employee(s) and DPS to ensure a fair and objective investigation. For that reason, temporary placements are not grievable and do not carry appeal rights.

Special Provisions - Credentials

By statute, regulation, and administrative rule, some duties assigned to positions in the State service may be performed only by persons who are duly licensed, registered, or certified as required by the relevant law or policy. All such requirements and restrictions are specified in the statement of essential qualifications or recruitment standards for such classifications established by the State Human Resources Commission (SHRC) or by the applicable professional licensing or Certification Board or Commission.

An employee in such a classification is responsible for obtaining and maintaining current, valid credentials as required by law, rule, or regulation. Failure to obtain and maintain the legally required credentials is a basis for immediate dismissal without prior warning, consistent with dismissal for unacceptable personal conduct or grossly inefficient job performance. An employee who is dismissed shall be under the procedural requirements applicable to dismissals for unacceptable personal conduct or grossly inefficient job performance, including a Pre-Disciplinary Conference, written statement of the reason for the action and appeal rights if a career State employee.

Falsification of employment credentials or other documentation in connection with securing employment constitutes just cause for disciplinary action. When credential or work history falsification is discovered after employment with a State agency, disciplinary action shall be administered as follows:

- If an employee was determined to be qualified and was selected for a position based on falsified work experience, education, registration, licensure or certification information that was a requirement of the position, the employee must be dismissed in accordance with the same provisions as used for grossly inefficient job performance/unacceptable personal conduct.
- In all other cases where discovery of the false or misleading information occurs after the individual has been employed, disciplinary action shall be issued, but the severity of the disciplinary action shall be at the discretion of the Secretary or designee.
- When credential or work history falsification is discovered before employment, the applicant shall be disqualified from consideration for the position in question.

Right to Appeal

All employees who have attained career status as that term is defined in law may have appeal rights as allowed by the State of North Carolina Employee Grievance Policy.

An employee as identified above may appeal the following disciplinary actions:

- Demotion;
- Disciplinary Suspension without Pay;
- Dismissal.

The time for filing an appeal does not start until the employee receives a written notice of any applicable appeal rights.

If the employee fails to timely appeal the disciplinary action, the employee is deemed to have waived the right to appeal the disciplinary action.

Refer to the State of North Carolina Employee Grievance Policy for further information.

http://www.oshr.nc.gov/Guide/Policies/7_Discipline,%20Appeals%20and%20Grievances/Employee%20Appeals%20and%20Grievances.pdf

Transfer of Disciplinary Action

When an employee transfers to or from another department or unit, any active disciplinary actions will transfer with the personnel file of the employee and will remain in full force at the new work unit until removed by the new employer or made inactive by operation of this policy.

Responsibilities

DPS Management

- Provide and ensure the administration of disciplinary actions in a manner that is equitable and free of unlawful discrimination throughout DPS.
- Adhere to and consistently administer the Disciplinary Policy and Procedures.
- Consult with the Human Resources Director or designee and obtain review of disciplinary actions as directed by policy.

DPS Human Resource Staff

- Develop and maintain the DPS Disciplinary Policy and Procedures in accordance with the requirements set out by the OSHR and approved by the State Human Resource Commission.

- Communicate the DPS Disciplinary Policy and Procedures to managers, supervisors, and employees and notify management, supervisors, and employees of changes.
- Provide consultation to DPS management, supervisors, and employees regarding the Disciplinary Policy and Procedures.
- Review and provide prior consultation for all disciplinary actions. Maintain records and provide to the OSHR information and statistics on the discipline and dismissal process in a form prescribed by the OSHR.
- Provide training to managers and supervisors in the administration of this policy.

Supervisors

- Assure the satisfactory performance of work assigned by an employee of the work unit. The supervisor's determination is presumed to be reasonable and factually supported.
- Mandate acceptable personal conduct of each employee by providing standards, regular feedback, instruction, and counseling.
- Consult with the Human Resources Director or designee to obtain guidance for issuing disciplinary actions as directed by policy.
- Recommend a disciplinary action when in his/her judgment the employee has engaged in conduct or performance prohibited by this policy and the DPS standards.
- Adhere to and consistently administer the Disciplinary Policy and Procedures.

Employees

- Maintain acceptable job performance and personal conduct in accordance with the position requirements and performance standards.